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Matthew Verdiglione

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

Matthew Verdiglione,

Plaintiff,

v.

Tony N. Taing; Kech H. Taing;  
FiveSixTwo Motorsports and Does 1-10,  
inclusive,

Defendants.

Case No. 8:18-cv-1604

**COMPLAINT**

Plaintiff, Matthew Verdiglione, hereby complains and alleges as follows:

**NATURE OF THE ACTION**

1. This is an action seeking to remedy unlawful discrimination by the Defendants against the Plaintiff in the Defendants' places of public accommodation in violation of the Americans with Disabilities Act [42 U.S.C. § 12101, *et seq.*] (the "ADA") and the Unruh Civil Rights Act [*California Civil Code* § 51, *et seq.*] (the "Unruh Act").

**PARTIES**

2. Plaintiff, Matthew Verdiglione, is a paraplegic resident of the state of California who requires the use of a wheelchair for mobility purposes and who is therefore a “person with a disability” within the meaning of the ADA and *Cal. Government Code* § 12926.

3. The Defendants (defined below) discriminated against Plaintiff in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations on the basis of Plaintiff’s disability at the Subject Property (defined below) in violation of the ADA [42 U.S.C. §§ 12182(a), 12182(b)(2)(A)(iv) and 12182(b)(2)(A)(v)].

4. The Defendant’s failure to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities prevented Plaintiff from enjoying fair and equal access to the Subject Property (defined below) in violation of the ADA [42 U.S.C. § 12182(b)(2)(A)(ii)].

5. Defendant, Tony N. Taing, owns, operates, or leases real property located at 1111 E Anaheim St, Long Beach, CA 90813, also known as Los Angeles County Assessor’s Parcel No. 7268-016-047 (the “Subject Property”).

6. Defendant, Kech H. Taing, owns, operates, or leases real property located at the “Subject Property.”

7. Defendant, FiveSixTwo Motorsports, owns, operates, or leases real property located at the “Subject Property.”

1           8. The Subject Property is a commercial facility open to the general  
2 public, is a public accommodation, and is a business establishment insofar as  
3 goods and/or services are made available to the general public thereat. Defendant  
4 Does 1 through 10, inclusive, are sued herein under fictitious names. Their true  
5 names and capacities are unknown to the Plaintiff. When their true names and  
6 capacities are ascertained, Plaintiff will amend this complaint by inserting their  
7 true names and capacities herein. Plaintiff is informed and believes and thereon  
8 alleges that each of the fictitiously named Defendants are responsible in some  
9 manner for the occurrences herein alleged, and that the harm to Plaintiff herein  
10 alleged were proximately caused by those Defendants.

11                           **JURISDICTION AND VENUE**

12           9. This Court has jurisdiction over the subject matter of this action  
13 pursuant 28 U.S.C. § 1331 and 28 U.S.C. §§ 1343(a)(3) and 1343(a)(4) for  
14 violations of the ADA.  
15

16           10. This Court has supplemental jurisdiction over the state law  
17 claims alleged herein under the Unruh Act because the state law claim is an  
18 attendant and related cause of action that arises from the same nucleus of operative  
19 facts and arising out of the same transaction or occurrence as the federal law  
20 claims set forth herein.

21           11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)  
22 based on the fact that the real property that is the subject of this action is located in  
23 this district and the Plaintiff's causes of action arose in this district.  
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**STATEMENT OF FACTS**

12. Parking spaces, accessible aisles, paths of travel, signage, doorways, service counters, customer areas and goods/services are among the facilities, privileges and advantages offered by the Defendants to patrons of the Subject Property.

13. The Subject Property does not comply with the minimum requirements of the ADA and is therefore not equally accessible to Plaintiff or similarly situated persons with mobility disabilities.

14. In July, 2018 and continuously from that time to the Present, and currently, the Subject Property has not been in compliance with the ADA (the “Barriers”):

A. The Subject Property lacks the minimum required number of ADA compliant accessible parking spaces.

B. There was no diagonal striped marking and no blue border around where an access aisle is supposed to exist adjacent to any designated accessible parking space(s) serving the Subject Property.

C. The designated “accessible” parking space(s) and/or blue striped access aisles provided at the Subject Property are smaller than permitted by the ADA.

D. The designated “accessible” parking spaces at the Subject Property do not provide accessible parking signage as required by the ADA. Among other things, they fail to provide tow-away signage and “Minimum Fine \$250” signage as required by the ADA and state law to be posted near the designated accessible parking space(s).

1 E. The designated “accessible” parking spaces at the Subject  
2 Property do not provide the universal symbol of accessibility.

3 F. There is no twelve-inch high “NO PARKING” lettering  
4 on the blue-striped parking access aisle(s) serving the Subject Property.

5 G. There was no designated “van accessible” parking space  
6 with a corresponding 96” access aisle opposite the driver’s side when the vehicle is  
7 going forward into the parking space and no sign or additional language stating  
8 “Van Accessible” below the symbol of accessibility located in a manner that is not  
9 obstructed.

10 H. There were no accessible paths of travel from public  
11 transportations stops, accessible parking, public streets and sidewalks to the  
12 building entrances serving the Subject Property.

13 I. The paths of travel and turning radiuses serving the  
14 interior of business locations at the Subject Property do not comply with the ADA  
15 because they provide unreasonably narrow paths of travel and turning radiuses.

16 J. The service counters, point of sale machines and/or self-  
17 serve equipment serving the Subject Property are not within an operable reach  
18 range.

19  
20 15. Plaintiff personally encountered one or more of the Barriers  
21 at the Subject Property in July, 2018.

22 16. From July, 2018 to the present, the Plaintiff has been  
23 deterred from the Subject Property because of his knowledge of the existence of  
24 Barriers.  
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1           17. The existence of Barriers, the implementation of discriminatory  
2 policies, practices and procedures, and other ADA violations at the Subject  
3 Property caused Plaintiff difficulty, discomfort or embarrassment or reasonably  
4 dissuaded or deterred Plaintiff from accessing the Subject Property on particular  
5 occasions between July, 2018 and the present.

6           18. Plaintiff would like to return and patronize the Subject Property  
7 and use the business establishments thereat and intends to do so in the near future  
8 but will be deterred from doing so until all ADA violations are remediated.

9           19. On information and belief, the remediation of violations  
10 (a) identified hereinabove, (b) to be identified by the Defendants in discovery, and  
11 (c) to be discovered by Plaintiff's experts are all readily achievable in that the  
12 removal of them by the Defendants is and has been easily accomplishable without  
13 much difficulty or expense.

14           20. Defendants violated the ADA by failing to remove all mobility-  
15 related architectural barriers at the Subject Property. On information and belief,  
16 Plaintiff alleges that the failure to remove barriers has been knowing, willful and  
17 intentional because the barriers described herein are clearly visible and tend to be  
18 obvious even to a casual observer and because the Defendants operate the Subject  
19 Property and have control over conditions thereat and as such they have, and have  
20 had, the means and ability to make the necessary remediation of access barriers if  
21 they had ever so intended.

22           21. On information and belief, access barriers at the Subject  
23 Property are being consciously ignored by the Defendants; the Defendants have  
24 knowingly disregarded the ongoing duty to remove the Barriers in compliance with  
25 the ADA. Plaintiff further alleges on information and belief that there are other  
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1 ADA violations and unlawful architectural barriers at the Subject Property that  
2 relate to Plaintiff's mobility disability that will be determined in discovery, the  
3 remediation of which is required under the ADA.

4 22. Plaintiff hereby seeks to remediate and remove all barriers  
5 related to his disability, whether presently known or unknown. As the court held  
6 in *Doran v. 7-11, Inc.*, 506 F.3d 1191 (9<sup>th</sup> Cir. 2008):

7 “[W]here a disabled person has Article III standing to bring a claim for  
8 injunctive relief under the ADA because of at least one alleged statutory  
9 violation of which he or she has knowledge and which deters access to, or  
10 full use and enjoyment of, a place of public accommodation, he or she may  
11 conduct discovery to determine what, if any, other barriers affecting his or  
12 her disability existed at the time he or she brought the claim. This list of  
13 barriers would then in total constitute the factual underpinnings of a single  
14 legal injury, namely, the failure to remove architectural barriers in violation  
15 of the ADA, which failure actually harmed the disabled person by deterring  
16 that disabled person from visiting a facility that otherwise would have been  
17 visited at a definite future time, yielding Article III standing.”

18 23. Even if strictly compliant barrier removal were determined to  
19 be structurally or otherwise impracticable, there are many alternative methods of  
20 providing accommodations that are readily apparent and that could provide a  
21 greater degree of accessibility to the Plaintiff and similarly situated persons but for  
22 the Defendants' discriminatory policies, practices and procedures and Defendants'  
23 conscious indifference to their legal obligations and to the rights of persons with  
24 mobility disabilities. Defendants' failure to implement reasonable available  
25 alternative methods of providing access violates the ADA [42 U.S.C. §  
26 12182(b)(2)(A)(v)].  
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1           24. The violations and references to code sections herein are not  
2 all-inclusive. Plaintiff will amend this complaint to provide a complete description  
3 of the full scope of ADA violations after conducting a comprehensive expert site  
4 inspection and other discovery. For the purposes of this Complaint, Plaintiff  
5 asserts that the barriers alleged herein violate one or more of the ADA's  
6 implementing regulations. The Defendants have maintained and continue to  
7 maintain discriminatory policies, procedures and practices that disregard their  
8 obligations under the ADA by allocating resources for physical improvements to  
9 the Subject Property that were did not provide legally required accessibility  
10 improvements, by failing to conduct ADA self-inspections or create ADA  
11 compliance plans regarding the Subject Property, by causing alterations to be made  
12 to the Subject Property in disregard of ADA requirements, and for failing and  
13 refusing to make necessary accommodations for persons with mobility disabilities  
14 at the Subject Property. Plaintiff seeks a declaration that the Defendants' disability  
15 rights compliance policies, procedures and practices are discriminatory and violate  
16 the ADA.  
17

18                   **FIRST CAUSE OF ACTION**  
19                   Discrimination Based on Disability  
20                   [42 U.S.C. §§ 12101, *et seq.*]  
21                   By Plaintiff against all Defendants

22           25. Plaintiff re-alleges and incorporates by reference as though  
23 fully set forth herein the allegations contained in all prior paragraphs of this  
24 complaint.

25           26. The ADA obligates owners, operators, lessees and lessors of  
26 public accommodations to ensure that the privileges, advantages, accommodations,  
27 facilities, goods and services are offered fully and equally to persons with  
28



1 disabilities, including the Plaintiff and others similarly situated [42 U.S.C. §  
2 12182(a)].

3 27. Discrimination is defined in the ADA, *inter alia*, as follows:

4 A. A failure to remove architectural barriers where such  
5 removal is readily achievable [42 U.S.C. § 12182(b)(2)(A)(iv)]. Architectural  
6 barriers are identified and described in the Americans with Disabilities Act  
7 Accessibility Guidelines (the “ADAAG”) [28 C.F.R. Part 36, Appendix “D”].

8 B. A failure to make alterations in such a manner that, to the  
9 maximum extent feasible, the altered portions of the facility are readily accessible  
10 to and usable by individuals with disabilities, including individuals who use  
11 wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to  
12 the altered area and the bathrooms, telephones, and drinking fountains serving the  
13 altered area, are readily accessible to and usable by individuals with disabilities [42  
14 U.S.C. § 12183(a)(2)].

15 C. Where an entity can demonstrate that the removal of a  
16 barrier is not readily achievable, a failure to make such goods, services, facilities,  
17 privileges, advantages, or accommodations available through alternative methods  
18 if such methods are readily achievable [42 U.S.C. § 12182(b)(2)(A)(v)].

19 D. A failure to make reasonable modifications in  
20 policies, practices, or procedures, when such modifications are necessary to afford  
21 such goods, services, facilities, privileges, advantages, or accommodations to  
22 individuals with disabilities, unless the entity can demonstrate that making such  
23 modifications would fundamentally alter the nature of such goods, services,  
24 facilities, privileges, advantages, or accommodations [42 U.S.C. §  
25 12182(b)(2)(A)(ii)].  
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1                   28. The ADA, the ADAAG's 1991 Standards (the "1991  
2 Standards") and 2010 Standards (the "2010 Standards"), and the California  
3 Building Code (the "CBC") contain minimum standards that constitute legal  
4 requirements regarding wheelchair accessibility at places of public  
5 accommodation:

6                   A. If parking spaces are provided for self-parking by  
7 employees or visitors, or both, then the subject property must provide at least the  
8 minimum required number of accessible parking spaces. Accessible parking  
9 spaces must be marked to define their width and must have an adjacent ADA  
10 compliant access aisle. Accessible parking spaces must be at least 96 inches wide  
11 and van parking spaces must be at least 132 inches wide except that van parking  
12 spaces can be 96 inches wide where the access aisle is not less than 96 inches  
13 wide [1991 Standards § 4.1.2(5); 2010 Standards § 208 and 502.2]. Here, the  
14 Subject Property does not comply with the ADA.  
15

16                   B. To qualify as a reserved handicap parking space, the  
17 space must be properly marked and designated. Under the ADA, the method,  
18 color of marking and length of the parking space are to be addressed by state or  
19 local laws of regulations [1991 Standards § 4.6; 2010 Standards §§ 502, 502.3.3  
20 and 503].

21                   C. To properly and effectively reserve a parking space for  
22 persons with disabilities, each parking space must be at least 216 inches in length  
23 [CBC § 11B-502.2].

24                   D. Each parking space reserved for persons with disabilities  
25 shall be identified by a reflectorized sign permanently posted immediately  
26 adjacent to and visible from each stall or space, consisting of the International  
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1 Symbol of Accessibility in white on a dark blue background. The sign shall not be  
2 smaller than 70 square inches (4516 mm<sup>2</sup>) in area and, when in a path of travel,  
3 shall be posted at a minimum height of 80 inches (2032 mm) from the bottom of  
4 the sign to the parking space finished grade. Signs may also be centered on the  
5 wall at the interior end of the parking space. An additional sign or additional  
6 language below the symbol of accessibility shall state "Minimum Fine \$250"  
7 [2010 Standards § 502.6; CBC § 1129B.4].

8 E. Signs identifying accessible parking spaces must include  
9 the International Symbol of Accessibility [2010 Standards §§ 502.6].

10 F. To properly and effectively reserve a parking space for  
11 persons with disabilities, the surface of the access aisle must have a blue  
12 border; the words "NO PARKING" in letters at least a foot high must be  
13 painted on the access aisle [CBC § 1129B.3].

14 G. One in every eight accessible spaces, but not less than  
15 one, must be served by a loading and unloading access aisle 96 inches (2438 mm)  
16 wide minimum placed on the side opposite the driver's side when the vehicle is  
17 going forward into the parking space and shall be designated van accessible. Van  
18 accessible spaces must have an additional sign or additional language stating "Van  
19 Accessible" below the symbol of accessibility. Signs identifying accessible  
20 parking spaces must be located so they cannot be obscured by a vehicle parked in  
21 the space [1991 Standards § 4.6; 2010 Standards §§ 502; CBC §§ 1129B.3  
22 and B4].

23  
24 H. At least one accessible route must be provided from  
25 public transportation stops, accessible parking, and accessible passenger  
26 loading zones, and public streets or sidewalks to the accessible building  
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entrance they serve. The accessible route must, to the maximum extent feasible, coincide with the route for the general public, must connect accessible buildings, facilities, elements, and spaces that are on the same site, and at least one accessible route must connect accessible building or facility entrances with all accessible spaces and elements and with all accessible dwelling units within the building or facility [1991 Standards §§ 4.1.2(1) and 4.3.2; 2010 Standards §§ 206 and 401].

I. The minimum clear width of an accessible route is 36 in (915 mm), except at where a person in a wheelchair must make a turn around an obstruction, in which case the minimum clear width of the accessible route is set forth in Figures 7(a) and 7(b) [1991 Standards § 4.3].

J. In public accommodations where counters have cash registers or are provided for sales or distribution of goods or services to the public, at least one of each type of counter must have a portion that is at least 36 in (915mm) in length with a maximum height of 36 in (915 mm) above the finished floor. The checkout counter surface height can be no more than 38 inches maximum above the finished floor or ground. The top of the counter edge protection can be up to 2 inches above the top of the counter surface on the aisle side of the checkout counter. Clear floor space that allows a forward or parallel approach by a person using a wheelchair must be provided at controls, dispensers, receptacles and other operable equipment [1991 Standards §§ 7.1(1), 7.2, 4.27.2; 2010 Standards §§ 309.2, 902.3, 904.3.2 and 904.3.3].

29. The Defendants have failed to comply with minimum

1 ADA standards and have discriminated against Plaintiff on the basis of  
2 Plaintiff's mobility disability. Each of the barriers and accessibility  
3 violations set forth above is readily achievable to remove, is the result of an  
4 alteration that was completed without meeting minimum ADA standards,  
5 or could be easily remediated by implementation of one or more available  
6 alternative accommodations. Accordingly, the Defendants have violated  
7 the ADA.

8 30. The Defendants are obligated to maintain in operable  
9 working condition those features of the Subject Property's facilities and  
10 equipment that are required to be readily accessible to and usable by  
11 Plaintiff and similarly situated persons with disabilities [28 C.F.R. §  
12 36.211(a)]. The Defendants failure to ensure that accessible facilities at the  
13 Subject Property were available and ready to be used by the Plaintiff  
14 violates the ADA.

15 31. The Defendants have a duty to remove architectural  
16 barriers where readily achievable, to make alterations that are consistent  
17 with minimum ADA standards and to provide alternative accommodations  
18 where necessary to provide wheelchair access. The Defendants benign  
19 neglect of these duties, together with their general apathy and indifference  
20 towards persons with disabilities, violates the ADA.

21 32. The Defendants have an obligation to maintain policies,  
22 practices and procedures that do not discriminate against the Plaintiff and  
23 similarly situated persons with mobility disabilities on the basis of their  
24 disabilities. The Defendants have maintained and continue to maintain a policy  
25 of disregarding their obligations under the ADA, of allocating resources for  
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1 improvements insufficient to satisfy legal requirements regarding accessibility  
2 improvements, of failing to conduct ADA self-inspections or create ADA  
3 compliance plans, of causing alterations to be made to the Subject Property in  
4 disregard of ADA requirements, and of failing and refusing to make necessary  
5 accommodations for persons with mobility disabilities at the Subject Property, in  
6 violation of the ADA.

7           33. The Defendants wrongful conduct is continuing in that  
8 Defendants continue to deny full, fair and equal access to their business  
9 establishment and full, fair and equal accommodations, advantages,  
10 facilities, privileges and services to Plaintiff as a disabled person due to  
11 Plaintiff's disability. The foregoing conduct constitutes unlawful  
12 discrimination against the Plaintiff and other mobility disabled persons  
13 who, like the Plaintiff, will benefit from an order that the Defendants  
14 remove barriers and improve access by complying with minimum ADA  
15 standards.  
16

17                           **SECOND CAUSE OF ACTION**

18                           Violations of the Unruh Rights Act

19                           [*Cal. Civil Code* § 51, *et seq.*]

20                           By Plaintiff against all Defendants

21           34. Plaintiff re-alleges and incorporates by reference as though  
22 fully set forth herein the allegations contained in all prior paragraphs of this  
23 complaint.

24           35. The foregoing violations of the ADA constitute *per se*  
25 violations of the Unruh Act [*Cal. Civil Code* § 51(f)].

26           36. Plaintiff personally encountered Barriers at the Subject  
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1 Property and has experienced, difficulty, discomfort or embarrassment or  
2 has been reasonably dissuaded or deterred from accessing the Subject  
3 Property on particular occasions due to ADA violations which would have  
4 actually denied Plaintiff full and equal access if he had attempted to access  
5 the Subject Property on those particular occasions.

6 37. Due to the unlawful discrimination set forth above,  
7 Plaintiff has been denied the right and entitlement to full and equal  
8 accommodations, advantages, facilities, privileges or services by the  
9 Defendants at the Subject Property in violation of the Unruh Act.

10  
11 **PRAYER FOR RELIEF**  
12

13  
14 Plaintiff prays to this Court for injunctive, declaratory and all other  
15 appropriate relief under the ADA and the Unruh Act, including but not  
16 limited to reasonable attorney's fees, litigation expenses and costs of suit  
17 pursuant to 42 U.S.C. § 12205 and *Cal. Civil Code* § 52.

18 **Note:** Plaintiff is not invoking *Cal. Civil Code* § 55 and does  
19 not seek injunctive relief under the Disabled Persons Act at all.

20 Respectfully submitted,

21 Dated: August 22, 2018

LAW OFFICES OF ROSS CORNELL, APC

22  
23  
24 By: /s/ Ross Cornell  
25 Ross Cornell, Esq.,  
26 Attorneys for Plaintiff,  
27 Matthew Verdiglione  
28